

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated September 3, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-9 and 11-17 are pending in the Application. Claim 10 is canceled herein, without prejudice. The Applicants respectfully reserve the right to reintroduce subject matter deleted herein, either at a later time during the prosecution of this application or any continuing applications. Claims 11-17 are added by this amendment.

By means of the present amendment, claims 1-9 are amended including for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include changing "characterized in that" to --wherein--, correcting typographical errors, amending dependent claims to begin with "The" as opposed to "A" and correcting certain informalities noted upon review of the claims. By these amendments, claims 1-9 are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

By means of the present amendment, the Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice.

Applicants thank the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority document(s).

In the Office Action, Applicants cooperation is requested in correcting any errors which Applicants become aware of in specification. The Applicants have reviewed the specification and have not discovered errors therein.

In the Office Action, it requested that the Applicants ensure that all references in the drawings are described in the detailed description and that all reference characters mentioned in the specification be included in the drawing figures. The Applicants have reviewed both the drawings and specification and have found no omission of references in either the drawings or detailed description.

In the Office Action, it is suggested that the specification include section headings. Applicants note the suggestion however respectfully decline to add the section headings since the section headings may be inappropriately utilized in interpreting the claimed subject matter.

In the Official Action, restriction is required as between Group 1, including claims 1-9 drawn to a beverage apparatus and group II, including claim 10 drawn to a method of making a beverage. In response, Applicants hereby confirm election of group I, claims 1-9, for an examination on the merits.

Claims 1-9 are rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. It is respectfully submitted that the amendments referenced above to render the claims to better conform to U.S. practice, obviates this rejection under 35 U.S.C. §112, second paragraph. Accordingly, it is respectfully requested that this rejection under 35 U.S.C. §112, second paragraph, be withdrawn.

In the Office Action, claims 1-9 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by European Patent Publication No. WO 01/15582 to Kraan ("Kraan") and European Patent Publication No.

WO 97/43937 to Illy ("Illy"). It is respectfully submitted that claims 1-9 and 11-17 are allowable over Kraan and Illy for at least the following reasons.

Kraan shows an apparatus for preparing coffee including "a holder 4 detachably connected to the housing. The holder 4 is arranged for receiving a pouch 6, made of a filter material and filled with a product to be extracted, such as ground coffee ..." (See, Kraan, FIG. 1 and the accompanying description contained on page 5, lines 8-11.) Kraan makes clear that "[t]he holder 4 is of cup-shaped design and consists of a bottom 16 and an upright, circumferential side wall 18, connected to the bottom. Provided in the bottom 16 is a recess 20, provided with at least one outflow opening 22. At its upper end, the holder is provided with an access opening 24." (See, Kraan, page 5, lines 16-19.) The device includes "a liquid duct 40" for conducting heated water through an inflow opening 38 to the outflow opening 24 (see, Kraan, page 6, lines 1-4). As is clear from even a cursory review of Kraan, heated water exiting the inflow opening 38, the outflow opening 24 and outflow opening 22 is free to contact surface portions of corresponding elements prior to entering any of the inflow opening 38, the outflow opening 24 and outflow opening 22.

Illy, shows an adapter 1 including an aperture 5 at its center that allows hot water to pass from an upper part 13 of a percolating chamber to a lower part 10 of the percolating chamber (see, Illy, FIGS. 1, 2 and the accompanying description contained in page 3, lines 19-23 and page 4, lines 4-12). Similar as Kraan, Illy, as is clear from even a cursory review, allows heated water passing the aperture 5 to freely contact surface portions of both the upper and lower parts 13, 10 of the percolating chamber.

Accordingly, it is respectfully submitted that the device of claim 1 is not anticipated or made obvious by the teachings of Kraan and Illy. For example, Kraan and Illy do not disclose or suggest, a device that amongst other patentable elements, comprises (illustrative emphasis added) "a brewing chamber, the brewing chamber being defined by an upper wall with one or more holes through which a heated liquid can enter the brewing chamber, and by a wall of a first removable part having an edge that can abut against said upper wall via first sealing means to form the brewing chamber, said first removable part being provided with outlet means for guiding the heated liquid out of the brewing chamber, and a second removable part comprising means for guiding the heated liquid from said one or more holes to outside the device without

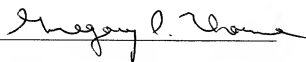
contacting said upper wall, which second removable part is interchangeable with said first removable part" as recited in claim 1, and as similarly recited in each of claims 9 and 11.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 9 and 11 are patentable over Kraan and Illy and notice to this effect is earnestly solicited. Claims 2-8 and 12-17 respectively depend from one of claims 1 and 11 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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